



CITY OF PHILADELPHIA

DEPARTMENT OF PUBLIC HEALTH
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DONALD F. SCHWARZ, MD, MPH
Deputy Mayor, Health & Opportunity
Health Commissioner

August 17, 2010

Shawn M. Garvin
Regional Administrator
U.S. Environmental Protection Agency, Region III
1650 Arch Street (Mail Code: 3RA00)
Philadelphia, PA 19103-2029

Re: Implementation of the Greenhouse Gas Tailoring Rule

Dear Mr. Garvin:

This letter responds to the U.S. Environmental Protection Agency (EPA) Administrator's request for information concerning the implementation of the "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule" (Tailoring Rule) published in the Federal Register on June 3, 2010. See 75 Fed. Reg. 31,514. Specifically, the EPA has requested that the City of Philadelphia Department of Public Health, Air Management Services (AMS) explain whether it will apply the meaning of the term "subject to regulation" as established by the EPA in the June 3, 2010 final rule for the prevention of significant deterioration (PSD) program. If so, EPA also wants to know "whether . . . [AMS] intend[s] to do so without undertaking a regulatory or legislative process ..." 75 Fed. Reg. 31,525.

AMS believes that it has adequate statutory and regulatory authority to apply the meaning of the term "subject to regulation" as established by the Tailoring Rule for PSD permitting programs within the city and county of Philadelphia. No legislative or regulatory amendments will be necessary.

Definition of "Subject To Regulation" as Established by EPA's Tailoring Rule is
Incorporated and Adopted Pursuant to Philadelphia Air Management Regulation XIII

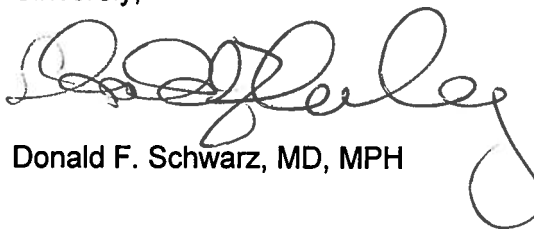
Pursuant to the Pennsylvania Air Pollution Control Act, 35 P.S. §§ 4004, 4012(b) and Title 3 of the Philadelphia Code, AMS is empowered to implement provisions of the Clean Air Act (CAA) within the city and county of Philadelphia. See also Agreement for Implementation of the Philadelphia County Air Pollution Control Program. The definition of the term "subject to regulation" in 40 C.F.R. § 52.21(b)(49) is adopted and incorporated by reference in 25 Pa. Code § 127.83 (relating to adoption of PSD program) and by Philadelphia Air Management Regulation (AMR) XIII. See 25 Pa. Code § 127.83; and AMR XIII §§ II.A.-II.B. AMR XIII enables AMS to

administer a PSD permit program in Philadelphia pursuant to substantive requirements, set forth in 25 Pa. Code Chapter 127 and 40 C.F.R. pt. 52.21, that are approved by EPA as part of the Pennsylvania State Implementation Plan (SIP). See 49 Fed. Reg. 33,127; 61 Fed. Reg. 39,594, 39,697; 62 Fed. Reg. 50, 870; and 68 Fed. Reg. 15,059 (EPA notice approving AMR XIII as a revision to the Philadelphia County portion of the Pennsylvania SIP). As AMR XIII adopts and incorporates 40 CFR part 52 generally, "all future changes to part 52 with regard to the federal PSD program are automatically incorporated" therein. 68 Fed. Reg. 15,059, 15,060. Accordingly, AMR XIII adopts and incorporates the 40 C.F.R. § 52.21(b)(49) "subject to regulation" definition for the Philadelphia PSD program without any further legislative or regulatory amendments.

Conclusion

AMR XIII, by incorporating and adopting 40 C.F.R. pt. 52.21 in its entirety, gives AMS the authority to implement the Tailoring Rule provisions for the Philadelphia PSD permitting program. No revisions to the Pennsylvania Air Pollution Control Act, the Philadelphia Code, or their respective implementing regulations will be necessary. Should you have any questions or need additional information, please contact Thomas Huynh, Director, Air Management Services, by e-mail at Thomas.huynh@phila.gov or by telephone at 215-685-7585.

Sincerely,

A handwritten signature in black ink, appearing to read "Donald F. Schwarz", with a large, stylized loop at the end.

Donald F. Schwarz, MD, MPH

cc: Nan Feyler, Chief of Staff
Thomas Huynh, Director, AMS